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IN THE
Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-1743

FRANK PETER DOYLE, JOHN HERBERT CHARLES NAYLER
and GEORGE NEWBOLD ROLINSON,

Petitioners,

—v.—

JOHN C. SHEEHAN,

Respondent.

**PETITIONERS' RESPONSE TO RESPONDENT'S
BRIEF IN OPPOSITION TO PETITION FOR
WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE
FIRST CIRCUIT**

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Doyle et al. believe that Sheehan is attempting to mislead this court and obscure and obfuscate the issues presented by Doyle et al. in their Petition for Writ of Certiorari.

The fundamental and overriding issue presented by Doyle et al.'s Petition is a clear and unequivocal conflict within the Circuits. Sheehan admits there is a conflict (Sheehan Opposition, page 3). This conflict is underscored by the First Circuit's misinterpretation of 35 U.S.C. 24 and its violation of the plain meaning rule of statutory interpretation, which rule has been well recognized by this court.

Moreover, the discovery sought by Doyle et al. is directed to an issue which is recognized to be a matter appropriately raised in an interference proceeding. (See *Desch v. Dickinson* only at 99 USPQ 218 (P.O. Bd. Interf. 1950) and *Bloom et al. v. Furczyk et al.* only at 144 USPQ 678 (P.O. Bd. Interf. 1955).)

Lastly, Sheehan has raised as a false issue the matter of pending legislation. Senate Bill 2255 would not be retroactive. Passage of the bill during this session of Congress, before adjournment is doubtful, at best. Passage without any changes is still more doubtful.

Section 23(a) and (b)(1) of that bill would expressly grant to a party requesting it the very discovery which Doyle et al. have requested in the present case. However, the entire matter of pending legislation is believed to be so highly speculative as not to present a relevant consideration with respect to the Petition before this court.

Doyle et al. therefore respectfully request that this court grant their Petition for Writ of Certiorari.

Respectfully submitted,

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